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OFFICE OF PETITIONS

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MADISON WI 53719

In re Application of
Hagstom, et al.
Application No. 10/733,706
Filed: 11 December, 2003
Attorney Docket No.: Mirus.048.01

DECISION
ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 22 June, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 and §119(e) for the benefit of priority to prior-filed applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(3) and §1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii) and §1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) and §1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §120 and §119(e) and 37 C.F.R. §1.78(a)(2)(i) and §1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in 37 C.F.R. §1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and §1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Application No. 10/733,706

The petition fails to comply with item (1) above.

It appears that Petitioner has mis-identified as a 09/-series application the Application No. 08/975,571.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 C.F.R. §1.78(a)(2)(i) and under 37 C.F.R. §1.78(a)(5)(i).

Accordingly, the petition under 37 CFR 1.78(a)(3) is **dismissed**.

This matter is being referred to Technology Center AU 1633 for further processing in due course.

Any inquiries concerning this decision may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

A handwritten signature in black ink, appearing to read 'Anthony Knight', with a stylized flourish at the end.

Anthony Knight
Supervisor
Office of Petitions